

REMARKS/ARGUMENTS

In response to the restriction requirement among Groups I-VIII stated in the Office Action, Applicants elect the claims of Group VII (claims 85-86) for further prosecution.

Applicants note that claims 83-84 and 90-98 are deemed to link Group VII and VIII (Office Action, page 5). Applicants understand that these linking claims will be examined and that, upon allowance, the claims of Group VIII will also be examined.

Applicants further note that the Office Action relates the claims of Groups VII and Groups I, III, and V and relates the claims of Group VIII with Groups II, IV, and VI as product and process of use (Office Action, pages 8-9). Applicants understand that, upon allowance of the claims of Group VII that the claims of Groups I, III, and V will be considered for rejoinder and that upon allowance of the claims of Group VIII, the claims of Groups II, IV, and VI will be considered for rejoinder.

In response to the restriction requirement stated in the Office Action at page 10, between SEQ ID NOs: 1 and 2 and between SEQ ID NOs: 3 and 4, applicants elect SEQ ID NOs: 1 and 3, with traverse. The traversal is that the species SEQ ID NOs: 1 and 2 and SEQ ID NOs: 3 and 4 are sufficiently few in number such that a search and examination of the sequences will not impose an undue burden. This is analogous to a situation involving a *Markush* claim with few species (See MPEP 803.02). Moreover, claim 83, which is stated by the Office to be generic and a linking claim, must be examined throughout its full scope, and restriction within the claim is improper.

The Office Action also requires election of species from certain genera. Applicants' elections are as follows:

1. For the species of osteogenic factor or growth factor, relevant to claims 1, 10, 14, 22, 37, 40, 49, 52, 63, 66, 79, 83, and 91 (Office Action, page 11, paragraph 1), Applicants elect Bone Morphogenic Factor (BMP). BMP is recited in claims 11, 23, 38, 50, 63, 79, and 91, and BMP is within the scope of any claims upon which claims 11, 23, 38, 50, 63, 79, and 91 depend.

2. For the species of formulation of PP relevant to claims 1, 14, 25, 40, 52, 66, 83, and 84 (Office Action, pages 11-12, paragraphs 2 and 3), Applicants elect a toothpaste. A toothpaste is recited in claims 12, 24, 39, 51, 64, 80, and 84, and a toothpaste is within the scope of any claims upon which claims 12, 24, 39, 51, 64, 80, and 84 depend.

3. For the species of carrier (biodegradable polymer, biocompatible ceramic, or combination) relevant to claim 83 (Office Action, pages 12-13, paragraph 4), Applicants elect biodegradable polymer. This is recited in claim 84 and is encompassed by claim 83, upon which claim 84 depends.

4. For the species of water soluble polymer relevant to claim 93 (Office Action, page 13, paragraph 5), Applicants elect polyethylene glycol. This is recited in claim 94 and is encompassed by the claims upon which claim 94 depends.

5. For the species of non-water soluble polymer relevant to claim 93 (Office Action, page 13, paragraph 6), Applicants elect polycaprolactone (PCL). This is recited in claim 95 and is encompassed by the claims upon which claim 95 depends.

6. For the species of ceramic relevant to claim 92 (Office Action, pages 13-14, paragraph 7), Applicants elect hydroxyapatite. This is recited in claim 96 and is encompassed by the claims upon which claim 96 depends.

If, in the opinion of the Examiner, a telephone conference would expedite the prosecution of the subject application, the Examiner is invited to call the undersigned attorney.

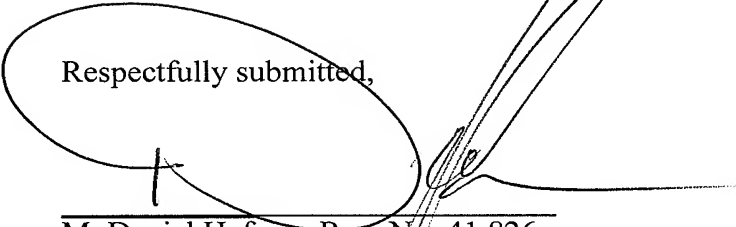
PETITION FOR EXTENSION OF TIME

Applicants hereby petition under 37 C.F.R. § 1.136(a) for a one-month extension of time, through June 28, 2008, to respond to the Office Action. Authorization to charge the fee of \$60.00 under 37. C.F.R. § 1.17(a), as well as any additional fee that may be due, to deposit account 12-1216 is hereby granted.

Application No. 10/568,998

Reply to Office Action

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